

UNITED STATES DISTRICT COURT
SOUTHER DISTRICT OF NEW YORK

-----X
FERNANDO LOPEZ, ADOLFO LOPEZ,
VENANCIO GALINDO, GIL SANTIAGO,

Plaintiff,

ANSWER

07 CIV 6526 (SAS)

-against-

FLOR DE MAYO, INC., PHILIP CHU,
DENNIS CHU and JOSE CHU,

Defendants
-----X

Defendants, Flor De Mayo, Inc., Philip Chu, Dennis Chu and Jose Chu by their attorney, Robert V. Ferrari, as and for their answer to the complaint, alleges as follows:

1. Denies knowledge or information sufficient to form an opinion as to the truth or falsity of the allegations contained in paragraphs 36, 37, 38, 39, 40, 41, 42, 43, 49, 50 and 51 of the complaint.

2. Denies each and every allegation contained in paragraphs 2, 3, 4, 16, 17, 28, 29, 30, 31, 33, 35, 45, 46, 47, 54, 56, 58, 59, 60, 61, 62, 64, 65, 66, 68, 69, 70 72, 73, 74 76, 77, 78, 79, 80, 81, 82, 83 and 84 of the complaint.

3. Denies each and every allegation contained in paragraphs 8, 10, 11 and 12 of the complaint, excepts admits that the plaintiffs were each employed by Flor de Mayo, Inc. at various times.

4. Denies each and every allegation contained in paragraph 13 of the complaint, except admits that defendant, Flor de Mayo Inc., is a corporation organized and existing under the laws of the State of New York, with a principal executive office at 484 Amsterdam Avenue, New York, New York 10024.

5. Denies each and every allegation contained in paragraph 19 of the complaint, except admits that defendant, Flor de Mayo, Inc., owns and operates a restaurant at 484 Amsterdam Avenue, New York, New York 10024.

6. Denies each and every allegation in paragraphs 22, 23, 48, 52, 53, 55, and 57 of the complaint and refers the statutory provisions referenced therein to the court for an interpretation of their true meaning and import.

7. Denies each and every allegation repeated and realleged in paragraphs 63, 67, 71 and 75 of the complaint to the extent that such allegations have heretofore been denied at length herein

8. Admits the allegations contained in paragraphs 1, 5, 6, 7, 9, 14, 15, 18, 20, 21, 24, 25, 26, 27, 32, 34 and 44 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

9. Upon information and belief, the plaintiffs were and still are all 'undocumented aliens' as such term is defined under the federal immigration laws.

10. That by reason thereof, under such laws and federal immigration policy, plaintiffs cannot recover unpaid wages as demanded in the complaint.

11. In light of the foregoing, the complaint alleged by each of the plaintiffs must be dismissed.

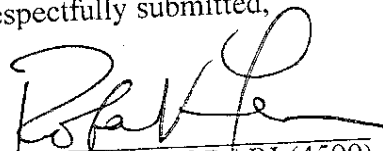
AS AND FOR A SECOND AFFIRMATIVE DEFENSE

12. A portion of plaintiffs' claims are barred by the applicable statute of limitations.

WHEREFORE, judgment is requested dismissing the complaint, together with the costs and disbursements of this action.

Dated: August 8, 2007

Respectfully submitted,



ROBERT V. FERRARI (4599)
Attorney for Defendants
630 Third Avenue, 16th Floor
New York, New York 10017
(212) 972-7040

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FERNANDO LOPEZ, ADOLFO LOPEZ, VENANCIO
GALINDO, and GIL SANTIAGO,

Plaintiff,

-against-

FLOR DE MAYO, INC., PHILLIP CHU, DENNIS CHU,
and JOSE CHU

Defendant.

ANSWER

ROBERT V. FERRARI

Attorney(s) for Defendants

Office and Post Office Address, Telephone

630 THIRD AVENUE, 16TH FLOOR
NEW YORK, NY 10017
(212) 972-7040
Fax: (212) 922-1939

Signature (Rule 130-1.1-a)

To

Print name beneath

Service of a copy of the within is hereby admitted.

Dated: _____

Attorney(s) for

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a (*certified*) true copy of a
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order
will be presented for settlement to the HON.
within named Court, at
on _____ at _____ M.

Dated,

of which the within is a true copy
one of the judges of the

Yours, etc.

ROBERT V. FERRARI

here

here



1. Place cover this side up on top of first page of document. Staple as indicated.



2. Lift bottom of cover up and over top, folding on top score line.



3. Fold cover down behind papers on remaining score line.

Note: Address area on back middle panel appears in window in a No. 10 envelope

STATE OF NEW YORK, COUNTY OF

SS.:

I, the undersigned, an attorney admitted to practice in the courts of New York State,

☐ **Certification By Attorney** certify that the within has been compared by me with the original and found to be a true and complete copy.

☐ **Attorney's Affirmation** state that I am the attorney(s) of record for _____ in the within action; I have read the foregoing _____ and know the contents thereof; the same is true to my own knowledge, except as to the matters therein alleged to be on information and belief, and as to those matters I believe it to be true. The reason this verification is made by me and not by _____

Check Applicable Box

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

I affirm that the foregoing statements are true, under the penalties of perjury.

Dated:

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF

SS.:

I, the undersigned, being duly sworn, depose and say: I am

☐ **Individual Verification** in the action; I have read the foregoing _____ and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe it to be true.

☐ **Corporate Verification** the _____ of _____ corporation and a party in the within action; I have read the foregoing _____ and know the contents thereof; and the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true. This verification is made by me because the above party is a corporation and I am an officer thereof.

The grounds of my belief as to all matters not stated upon my own knowledge are as follows:

Sworn to before me on

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF NEW YORK

SS.:

(If more than one box is checked—indicate after names type of service used.)

I, the undersigned, being sworn, say: I am not a party to the action, am over 18 years of age and reside at New York, New York

On August 9, 2007

I served the within Answer

☒ **Service By Mail** by mailing a copy to each of the following persons at the last known address set forth after each name below.

☐ **Personal Service on Individual** by delivering a true copy of each personally to each person named below at the address indicated. I knew each person served to be the person mentioned and described in said papers as a party therein:

☐ **Service by Electronic Means** by transmitting a copy to the following persons by ☐ FAX at the telephone number set forth after each name below ☐ E-MAIL at the E-Mail address set forth after each name below, which was designated by the attorney for such purpose, and by mailing a copy to the address set forth after each name.

☐ **Overnight Delivery Service** by dispatching a copy by overnight delivery to each of the following persons at the last known address set forth after each name below.

Check Applicable Box

Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017

Sworn to before me on August 9, 2007


The name signed must be printed beneath
ROBERT V. FERRARI

RICHARD H. BYRNES
Notary Public, State of New York
No. 02BY6044705
Qualified in New York County
Commission Expires September 20, 2012